

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

BENJAMIN SLICER,

Petitioner,

v.

// CIVIL ACTION NO. 1:10CV198
(Judge Keeley)

TIMOTHY STEWART,,

Respondent,

ORDER ADOPTING REPORT AND RECOMMENDATION (DKT. 16),
GRANTING MOTION TO DISMISS (DKT. 8),
AND DISMISSING § 2241 PETITION WITH PREJUDICE

The petitioner, Benjamin Slicer ("Slicer"), filed this petition pursuant to 28 U.S.C. § 2241, challenging the decision of the Bureau of Prisons ("BOP") to deny him early release eligibility under 18 U.S.C. § 3621(e). That statute grants the BOP the authority and discretion to reduce a prisoner's term of incarceration by up to one year in certain circumstances. In Slicer's case, the BOP determined that the nature of his conviction for possession with the intent to distribute methamphetamine prohibited his early release. The Respondent, Timothy Stewart, filed a motion to dismiss the petition, to which Slicer timely responded.

In a Report and Recommendation ("R&R") based on the Court's holding in Snipe v. Phillips, 3:08cv22, 2008 WL 5412868 (N.D.W. Va. 2008)(upholding BOP's categorical exclusion of certain offenders from early release eligibility), United States Magistrate Judge James E. Seibert recommended that the Court grant the Respondent's

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motion to dismiss. He also warned Slicer that failure to object to the conclusions of the R&R in a timely manner would result in a waiver of his right to appeal any decision based on its recommendations. Such a failure also relieves the Court of any obligation to conduct a de novo review of the R&R. 28 U.S.C. § 636. The record reflects that although Slicer received service of the R&R on March 23, 2011, he has filed no objections to it, and the time to do so has expired.

The Magistrate Judge correctly concluded that this Court's decision in Snipe compels dismissal of Slicer's claim. The Court therefore **ADOPTS** the R&R (dkt. 16) in its entirety, **GRANTS** the motion to dismiss (dkt. 8), and **DISMISSES** this action **WITH PREJUDICE**.

It is so **ORDERED**.

The Court directs the Clerk to prepare a separate judgment order and to transmit copies of both orders to counsel of record and to the pro se petitioner via certified mail, return receipt requested.

DATED: May 10, 2011.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE